

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	24cr497-2 (DLC)
-v-	:	
	:	<u>ORDER</u>
BIANNEURY PENA,	:	
	:	
Defendant.	:	
-----X	:	

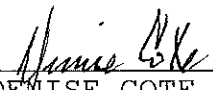
DENISE COTE, District Judge:

The Government's letter of July 3, 2025 and the defendant's letter of July 5 presented issues regarding testimony and arguments that may arise at the July 14 trial. The parties agree that the defendant may argue that the Government has not provided DNA evidence in support of the charges in the Indictment. The defendant agrees as well that he will not offer evidence or elicit testimony concerning swabs for DNA taken from items seized by law enforcement on June 7, 2024. The parties dispute, however, how evidence of three baggies containing a white powdery substance possessed by Diaz on June 7, 2024 may be treated. It is hereby

ORDERED that the defendant may elicit testimony and offer evidence that three baggies containing a white powdery substance were in Diaz's possession on June 7, 2024. The Government's request to exclude such evidence is denied. The defendant

represents that he will not offer evidence or elicit testimony regarding the failure to test the substance, and he may not do so.

Dated: New York, New York  
July 8, 2025

  
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DENISE COTE  
United States District Judge